IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4155 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DHIRUBHAI MADHABHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4155 of 2004

MR BM MANGUKIYA for Petitioner No. 1

Mr. Nagesh Sood, AGP for Respondent No. 1-4

RULE SERVED for Respondent No. 2,5-4

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 30/07/2004

ORAL JUDGEMENT

Rule. Mr. Sood, learned AGP waives service of Rule on behaof of the respondents. With the consent of the parties the matter is taken up for final hearing today.

2. In this petition under Article 226/227 of the Constitution of India the petitioner has challenged the legality and validity of the judgment and order passed by the Secretary (Appeals), Revenue Department, State of Gujarat, Ahmedabad dated 6.11.2003/30.12.2003 in Revision Application No. 3 of 1998.

3. Being aggrieved and dissatisfied wih the order dated 14.10.1996 passed by the Deputy Collector in forfeiting the land to the State Government the petitioner preferred appeal before the Collector, Bhavnagar. The Collector, Bhavnagar vide his judgment dated 3.11.1998 dismissed the said appeal confirming the order passed by the Deputy Collector, Palitana and directed the Mamlatdar to take possession of the land in question immediately.

3.1. Being aggrieved and dissatisfied with the judgment and order passed by the Collector, Bhavnagar dated 3.11.1998 in Appeal No. 43/96-97 in confirming the order passed by the Deputy Collector, Palitana the petitioner preferred revision application before the State Government, i.e., Secretary (Appeals), Revenue Department, State of Gujarat, Ahmedabad. The revisional authority by his judgmet and order dated 6.11.2003 dismissed the said revision application confirming the order passed by both the authorities below. Being aggrieved and dissatisfied with the order passed by the revisional authority the present petition is filed under Article 227 of the Constitution of India.

4. Shri BM Mangukia, learned advocate appearing on behalf of the petitioner submitted that in fact the hearing of the revision application was adjourned to 10th March 2004 and without any communication the date was preponed and revision application came to be heard by the revisional authority on 28th November 2003 and accordingly nobody could remain present on behalf of the petitioner and therefore the matter has proceeded ex-parte. He has also submitted that even otherwise the impugned judgment and order passed by the revisional authority dated 6.11.2003 is required to be quashed and set aside as while rejecting the revision application and confirming the order passed by both the authorities below no reason whatsoever has been assigned by the revisional authority. He has further submitted that the points which were raised by the petitioner in the revision memo are also not considered by the revisional authority and therefore requested to quash and set aside the judgment and order passed by the revisional authority.

5. On the other hand, Shri Sood, learned AGP has tried to support the judgment and order passed by the revisional authority, however so far as non-assigning of any reason while rejecting the revision application is concerned, Shri Sood is not in a position to support the said order.

6. On going through the judgment and order passed by the revisional authority it is crystal clear that the revisional authority has not assigned any reason whatsoever while rejecting the revision application and confirming the order passed by both the authorities below. In three lines in last para he has concluded the order and has stated that considering the overall facts and circumstances of the case the interference is not required and the order passed by both the authorities are not required to be quashed and set aside.

7. This Court [Coram: M.R. Shah, J.] has considered the question with regard to assignment of reasons in the case of Ambalal Somabhai Parmar vs. State of Gujarat in Special Civil Application No. 276 of 2004 and held that the revisional authority excercising quasi-judicial powers is required to assign reasons eiher to allow the revision application and/or to dismiss the revision application. The revisional authority cannot pass an order without assigning any reason. Not assigning any reasons would lead to arbitrariness. If an order apssed by the revisional authority is subject to challenge before the higher authority and/or before this Court and if reasons are not assigned, the higher authority and/or this Court would not be in a position to know what was passing in the mind of the revisional authority while rejecting the revision application. Therefore, the revisional authority is bound to give reasons and deal with the contentions raised by the revisionist in the revision application and/or at the time of hearing of the revision application. While considering the judgment and observations of the Hon'ble Supreme Court of India in the case of Certified Area Committee vs. Additional Director, Consolidation, reported in 2002(10) SCC Page 87 to the effect "The reasons are the flesh and blood of judicial adjudication and such reasons must be shown in the orders which are liable to be challenged in the Superior Court", the revisional authority ought to have given the reasons.

8. Considering the observations made by the Hon'ble Supreme Court in the aforesaid case, and the Judgement of this Court passed in Special Civil Application No. 276 of 2004, as the impugned judgment and order passed by the

revisional authority is a non-speaking order and without assigning any reason, the same is required to be quashed and set aside and the matter is required to be remanded to the revisional authority for deciding the same afresh in accordance with law and on merits. Accordingly, the judgment and order passed by the revisional authority is quashed and set aside only on the ground that the same is a non-speaking order and without assigning any reason and not being in consonance with the principle laid down by the Hon'ble Supreme Court of India. Accordingly, the judgment and order passed by the revisional authority is quashed and set aside. The matter is, therefore, remanded to the Secretary, Revenue Department (Appeals), State of Gujarat for considering the revision application submitted by the petitioners afresh in accordance with law and on merits. Such an exercise is required to be done by the revisional authority as early as possible preferably within the period of three months from the date of receipt of this order. This Court, however, makes it clear that this Court has not gone into the merits of the case. In view of the fact that now the matter is remanded to the revisional authority the interim relief which was in operation during the pendency of the revision application would automatically stand revived till the hearing and final disposal of the revision application. The petition is allowed accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

rmr. [M.R. Shah, J.]